



Center for Consumer Information and Insurance Oversight

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**Failure to File and Reconcile (FTR) Operations Flexibilities for Plan Years 2021 and 2022 –
Frequently Asked Questions (FAQ)**

The guidance referenced in this document is applicable to all Exchanges, and provides specific operational details for enrollees in Exchanges using the federal eligibility and enrollment platform. It does not replace or revise previously issued guidance, and it references current federal regulation at 45 CFR 155.305(f)(4), and the statute at section 1412 of the Affordable Care Act. This guidance describes flexibilities for consumers and Exchanges in regards to Failure to File and Reconcile (FTR) operations for plan years 2021 and 2022.

For plan years 2021 and 2022, CMS will not act on data from the Internal Revenue Service (IRS) for consumers who have failed to file tax returns and reconcile a previous year's advance payments of the premium tax credit (APTC) with the premium tax credit (PTC) allowed for the year. This change is being made in response to the impact of the 2019 novel coronavirus disease (COVID-19) public health emergency (PHE) on the processing of federal income tax returns and changes concerning the reconciliation of APTC with PTC for tax year 2020 announced by IRS in response to the American Rescue Plan. This change will allow APTC to continue for consumers not required to reconcile by attaching Form 8962, Premium Tax Credit, to their 2020 tax return due to IRS' announcement and consumers who reconciled but whose tax returns have not yet been processed by the IRS.

Q1: What is the Centers for Medicare & Medicaid Services (CMS) announcing today?

A1: CMS will not be taking certain actions in Exchanges using the federal eligibility and enrollment platform to remove the financial help enrollees receive to help pay for their health coverage because of their tax filing status. This change is due to the continued impact of the COVID-19 pandemic on the processing of 2019 and 2020 federal income tax returns, as well as a recent change passed by Congress regarding reconciliation of APTC with PTC for tax year 2020 under the American Rescue Plan Act of 2021, and the IRS' implementation of that change.

CMS is announcing that enrollees with an FTR status who were previously notified during Open Enrollment 2021 (Fall 2020) that CMS may recheck whether they or the taxpayer filed and reconciled (known as their "FTR status") will not have their FTR status rechecked in 2021 or have their APTC ended due to this recheck process (known as "FTR Recheck"). However, enrollees who update their

application in 2021 will still need to attest to having filed and reconciled, if they have done so, by checking the box that says, “Yes, I reconciled premium tax credits for past years.” CMS recommends consumers take this action because it is still a requirement to file your federal income taxes and reconcile your APTC for tax year 2019 per federal regulation at 26 CFR 1.36B-4(a)(1). This includes enrollees who submit an application update for the payment of additional APTC under the American Rescue Plan Act of 2021. Enrollees who do not attest to having filed and reconciled in their 2021 application may lose their eligibility to have APTC paid to help subsidize 2021 coverage.

Additionally, the IRS recently announced that taxpayers whose 2020 APTC is more than their PTC allowed for 2020 (excess APTC) are not required to reconcile their APTC with their PTC by attaching Form 8962, Premium Tax Credit, to their 2020 tax return. See the [IRS News Release](#)¹ about suspending the requirement to repay excess APTC, the [Instructions for Form 8962, Premium Tax Credit](#),² and [IRS Fact Sheet](#)³ for more details about the changes related to the PTC for tax year 2020.

Because taxpayers with excess APTC for 2020 are not required to file Form 8962 to reconcile APTC for tax year 2020, CMS will not take any FTR actions based on 2020 tax returns for plan year 2022 for enrollees in Exchanges using the federal eligibility and enrollment platform. As such, CMS will not warn enrollees via the Marketplace Open Enrollment Notice (MOEN) or FTR Direct Warning Notices when they have an FTR status or take action to terminate APTC for plan year 2022 based on having an FTR status. Finally, CMS will not run FTR Recheck in 2022. The announcement today does not change the general requirement for taxpayers for whom APTC was paid in years before 2020 to file their taxes and reconcile the APTC with the PTC allowed for the year. Consumers can find the latest information on filing and reconciling for 2020 federal income tax returns at: <https://www.irs.gov/newsroom/irs-suspends-requirement-to-repay-excess-advance-payments-of-the-2020-premium-tax-credit-those-claiming-net-premium-tax-credit-must-file-form-8962>.

Q2: What should enrollees who were notified as not having filed and reconciled before Open Enrollment 2021 (Fall 2020) and were warned that CMS may recheck their FTR status early in 2021 do to keep their APTC for 2021 coverage?

A2: Taxpayers for enrollees who may have an FTR status based on their 2019 federal income tax return should file a federal income tax return and reconcile past APTC if they have not already done so. However, CMS will not recheck FTR statuses and will not end APTC based on having an FTR status in 2021 through FTR Recheck. These enrollees will keep their APTC eligibility for the 2021 plan year, if

¹ <https://www.irs.gov/newsroom/irs-suspends-requirement-to-repay-excess-advance-payments-of-the-2020-premium-tax-credit-those-claiming-net-premium-tax-credit-must-file-form-8962>

² <https://www.irs.gov/forms-pubs/about-form-8962>

³ <https://www.irs.gov/newsroom/more-details-about-changes-for-taxpayers-who-received-advance-payments-of-the-2020-premium-tax-credit>

they are otherwise eligible. Enrollees who update their application during 2021 and who have filed and reconciled must still check the box that says “Yes, I reconciled premium tax credits for past years” in order to keep their APTC eligibility.

Q3: Is there still a requirement for taxpayers with Exchange enrollees in their household receiving APTC to file a federal income tax return and reconcile APTC, given these flexibilities for FTR operations in 2021 and 2022?

A3: Yes, taxpayers generally still have a requirement to file a federal income tax return and reconcile APTC for any plan year for which APTC was paid for someone in their household. However, the IRS recently announced that, for tax year 2020, taxpayers with excess APTC for 2020 are not required to file Form 8962, Premium Tax Credit, to reconcile their APTC with the amount of PTC they may claim for 2020. See the [Instructions for Form 8962, Premium Tax Credit](#)⁴, [News Release](#)⁵ and [IRS Fact Sheet](#)⁶ for more details about the changes related to the PTC for tax year 2020.

Taxpayers claiming a net PTC for 2020, which is PTC in excess of the 2020 APTC paid for the taxpayer or someone in the taxpayer’s household, are still required to file their 2020 federal income tax return and attach Form 8962 to claim the net PTC, and are encouraged to do so as soon as possible. Consumers can use the Form 1095-A they received from the Marketplace in early 2021 to complete their 2020 Form 8962. Likewise, taxpayers who have a requirement to file and reconcile with their 2019 federal income tax return must do so immediately. More information on filing and reconciling using Form 1095-A can be found on HealthCare.gov: <https://www.healthcare.gov/taxes-reconciling/>.

Q4: What should enrollees who have filed their 2020 federal income tax return and reconciled APTC do if they are worried their federal income tax return may not be processed yet?

A4: Because CMS is suspending FTR operations for Open Enrollment 2022 and will not be conducting FTR Recheck in early 2022, delays in the processing of filed tax returns will not affect APTC eligibility for 2022. As part of this suspension, Exchange enrollees will not receive warning notices from the Exchange about their FTR status before Open Enrollment 2022 (Fall 2021) as they would have in previous years. Additionally, these enrollees will not be determined APTC ineligible due to their FTR status during or after Open Enrollment 2022 as in previous years.

⁴ <https://www.irs.gov/forms-pubs/about-form-8962>

⁵ <https://www.irs.gov/newsroom/irs-suspends-requirement-to-repay-excess-advance-payments-of-the-2020-premium-tax-credit-those-claiming-net-premium-tax-credit-must-file-form-8962>

⁶ <https://www.irs.gov/newsroom/more-details-about-changes-for-taxpayers-who-received-advance-payments-of-the-2020-premium-tax-credit>

Q5: Will enrollees identified as having an FTR status based on their 2019 and/or 2020 federal income tax returns receive any communications from CMS regarding their FTR status?

A5: No. Enrollees who may have an FTR status will not receive any further communication from CMS about their FTR status for plan years 2021 and 2022 as CMS will not take any action to end APTC for this population due to their FTR status.

Q6: Does this announcement regarding the additional FTR flexibilities for plan years 2021 and 2022 also apply to State-Based Exchanges (SBEs) that operate their own eligibility and enrollment platform?

A6: Yes. This guidance also provides additional flexibilities for FTR operations for State-based Exchanges (SBEs) that operate their own eligibility and enrollment platform for plan years 2021 and 2022. Enrollees residing in states with Exchanges that operate their own platforms should check with their SBE regarding specific changes that the SBE opts to implement for 2021 and 2022 as a result of this guidance, and any actions enrollees may need to take.